

In the Claims

A marked up version of the following amendments is provided on attached sheet.

Please cancel claim 1 and 2, without prejudice.

Claim 5

A2 5. (amended) The method of claim 3, wherein said thyroid related substance is thyroid hormone, thyroxine, thyrotropin, thyroid stimulating hormone, or analogues or pharmaceutically acceptable salts or derivatives thereof that have similar biological functionality or effect in the body.

Claim 10

A3 10. (amended) The kit of claim 7, wherein the somatostatin and thyroid-related substance are in a form suitable for oral administration.

Claim 14:

A4 14. (amended) A method of treating or preventing the onset of diabetic retinopathy comprising assaying a group of somatostatin analogues for their to bind to a sstr2 somatostatin receptor; selecting one or more analogues having high affinity to said sstr2 somatostatin receptor; administering said one or more selected analogues to a patient in need thereof; and co-administering a thyroid-related substance.

Please cancel claim 16, without prejudice.

Remarks

Claims 1-18 are currently pending in the subject application. Claims 1, and 2 are canceled to expedite prosecution in this case. Claim 16 is cancelled as redundant in view of the amendment to claim 14. The amendments to the above claims are made, without prejudice, and Applicants reserve the right to pursue any subject matter affected by the foregoing amendments

in later filed divisional/continuation applications. Accordingly, upon entry of these amendments, claims 3-15, 17, and 18 will be before the Examiner for consideration.

Claims 1 and 2 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35-39 of copending Application No. 10/175,833. Applicant asserts that the amendments above obviate this rejection.

Claims 1 and 2 were rejected under 35 USC § 102(b) as being anticipated by the McCombe et al article. Applicant asserts that the amendments above obviate this rejection.

Claims 14 and 15 were rejected under 35 USC § 103(a) as being obvious over the McCombe et al article. Applicant asserts that the amendments to claim 14 obviate this rejection. Reconsideration is requested.

Claims 1 and 2 are rejected under 35 USC § 102(b) as being anticipated by the Kirkegaard et al article. Applicant asserts that the amendments above obviate this rejection.

Claims 14 and 15 were rejected under 35 USC § 103(a) as being obvious over the Kirkegaard et al article. Applicant asserts that the amendment to claim 14 overcomes this rejection. Reconsideration is requested.

Claims 1 and 2 are rejected under 35 USC § 102(e) as being anticipated by the Bodor et al patent. Applicant asserts that the amendments above obviate this rejection.

Claims 14 and 15 were rejected under 35 USC § 103(a) as being obvious over the Bodor et al patent. Applicant asserts that the amendment to claim 14 overcomes this rejection. Reconsideration is requested.

Claims 1-6, 17, and 18 are rejected under 35 USC § 102(b) as being anticipated by the Grant et al abstract. Applicants respectfully traverse on several grounds. First, Applicant notes that the specification of the subject application has been amended above to claim priority to Provisional Application No. 60/188,483 ('483 application) filed March 10, 2000. Applicant points out that the declaration/power of attorney filed with the subject application provided a complete and accurate claim of priority to this earlier application. Thus, according to recent guidelines posted by the USPTO, Applicant's citation to '483 application satisfied the requirements of 37 CFR 1.78. Applicant now presents the foregoing amendment to put the application in proper form.

Secondly, and related to the first point above, the undersigned attorney realized during the preparation of this Reply that the subject application was erroneously issued a filing date of

March 13, 2001. The subject application was filed on March 12, 2001 thereby falling within the anniversary date of the filing of the '483 application. In a separate paper, Applicant has filed a Petition under 37 CFR 1.10(d) for purposes of correcting the filing date from March 13, 2001 to March 12, 2001.

Therefore, in view of the priority back to the '483 application, the Grant et al. abstract ceases to be prior art under 35 USC § 102(b). Thus, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-6, 17, and 18.


Claims 7-13 stand rejected under 35 USC § 103(a) as being obvious over the Grant et al abstract. Applicants reiterate the remarks in the preceding three paragraphs, which apply to this rejection as well. Reconsideration is requested.

Claims 14-16 are rejected under 35 USC § 103(a) as being obvious over the Grant et al abstract and in further view of Patel et al. Applicants reiterate that the valid priority claim to the '483 application, and in further view of the amendments to claim 14 obviate this rejection. Reconsideration is requested.

With respect to item 14 of the outstanding office action, Applicant notes that the paper referred to by the Examiner was published in the April 2000 volume of Diabetes Care. In light of the priority claim to the '483 application, this paper should not be considered prior art and therefore is irrelevant to patentability.

Applicants request that the Examiner call the undersigned if clarification is needed on any aspect of this Reply, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application.

Respectfully submitted,


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3-19-03
Date

Marked-up version of amendments

In the Specification

Replace "Cross-reference to Related Applications" section with the following:

--Cross-reference to Related Applications

This application claims the benefit under 35 USC § 119(e) to Provisional Application No. 60/188,483 filed March 10, 2000. --

In the Claims

Please cancel claim 1 and 2, without prejudice.

Claim 5

5. (amended) The method of claim 3, wherein said thyroid related substance is thyroid hormone, thyroxine, thyrotropin, thyroid stimulating hormone, or analogues or[,] pharmaceutically acceptable salts or derivatives thereof that have similar biological functionality or effect in the body.

Claim 10

10. (amended) The kit of claim 7, wherein the somatostatin and [thyroid-related] thyroid-related substance [is] are in a form suitable for oral administration.

Claim 14:

14. (amended) A method of treating or preventing the onset of diabetic retinopathy comprising assaying a group of somatostatin analogues for their to bind to a sstr2 somatostatin receptor; selecting one or more analogues having high affinity to said sstr2 somatostatin receptor; [and] administering said one or more selected analogues to a patient in need thereof; and co-administering a thyroid-related substance.

Please cancel claim 16, without prejudice.